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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND/SAN FRANCISCO DIVISION**

11 FACEBOOK, INC., a Delaware corporation,
12

13 Plaintiff,

14 v.

15 BRANDTOTAL LTD., an Israeli
16 corporation, and UNIMANIA, INC., a
Delaware corporation,

17 Defendants.
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Case No. 3:20-CV-07182

**DECLARATION OF MICHAEL
DUFFEY IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANTS' *EX*
PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER**

Hon. Joseph C. Spero

1 I, Michael P. Duffey, declare:

2 1. I submit this declaration in the above-captioned matter. I have personal knowledge of
3 the facts set forth herein, and if called to testify as a witness, I could do so competently under oath.

4 2. I am employed as an eDiscovery & Litigation Case Manager in the Legal Department
5 at Facebook. I have been employed by Facebook since March 20, 2017.

6 3. Every user who registers for, uses, and continues to use the Facebook Platform must
7 agree to Facebook's Terms of Service. The Facebook Terms of Service include the Commercial
8 Terms. The Commercial Terms apply to users using or accessing Facebook for any business or
9 commercial purpose.

10 4. Every user who registers for, uses, and continues to use the Instagram Platform agrees
11 to the Instagram Terms of Use and other rules that govern access to and use of Instagram, including
12 Instagram's Community Guidelines, Platform Policy, and and Data Policy.

13 5. Facebook maintains different versions of the Instagram and Facebook Terms that
14 apply to users at different locations in the world. Facebook maintains a website address for the
15 Facebook Terms (<https://www.facebook.com/terms.php>) and a website address for the Instagram
16 Terms (<https://help.instagram.com/581066165581870?ref=dp>), both of which display a different
17 version of the Terms according to the location associated with a user's Internet Protocol address ("IP
18 address"). Facebook and Instagram users using an IP address in Israel would see Terms applicable
19 to Israel.

20 6. There is only one version of the Facebook Commercial Terms and that version
21 applies to all Facebook users regardless of a user's location. Facebook maintains a website address
22 for the Facebook Comercial Terms (https://www.facebook.com/legal/commercial_terms).

23 7. In preparation for testifying and providing this declaration, I reviewed the Terms for
24 Facebook and Instagram, and the Facebook Commercial Terms, that were applicable in October
25 2020.

26 8. Attached as **Exhibit 1** is a true and correct copy of for Facebook Terms for Israel for
27 the period of October 1, 2020 through the present.

Michael P. Duffey